



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Social and Health Services, Aging and Disability Services Administration

Permanent Rule Only

Effective date of rule:

Permanent Rules

☒ 31 days after filing.

☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: The purpose of this proposed rule making is to make editorial and clarifying changes and to make them consistent with current laws and standards. The impact of the proposed rule is to make the rule clearer, easier to read, understand, and apply.

The department intends to create the following new sections:

WAC 388-76-10002 Department authority; WAC 388-76-10003 Department access; WAC 388-76-10057 Application-General qualifications; WAC 388-76-10063 Application-General training requirements; WAC 388-76-10064 Application-Forty-eight hour class training requirements; WAC 388-76-10129 Qualifications-Adult family home personnel; WAC 388-76-10191 Liability insurance required-ongoing; WAC 388-76-10192 Liability insurance required-Professional Liability Insurance coverage; WAC 388-76-10193 Liability insurance required-Commercial General Liability Insurance or Business Liability Insurance coverage; WAC 388-76-10198 Adult family home-Personnel records; WAC 388-76-10522 Resident Rights Notice-Policy on accepting Medicaid as a payment source WAC 388-76-11004 Resident protection program-Individual defined; WAC 388-76-11050 Management Agreements-General; WAC 388-76-11055 Management Agreements-Adult family home; WAC 388-76-11060 Terms of the Management Agreement; WAC 388-76-11065 Management agreements-Department review; WAC 388-76-11070 Management agreements-Resident funds; WAC 388-76-11080 Notice-Complete; WAC 388-76-11085 Notice-Proof

Citation of existing rules affected by this order:

Repealed: WAC 388-76-10190

Amended: WAC 388-76-10000; 388-76-10015; 388-76-10020; 388-76-10030; 388-76-10050; 388-76-10055; 388-76-10080; 388-76-10115; 388-76-10120; 388-76-10125; 388-76-10180; 388-76-10195; 388-76-10225; 388-76-10270; 388-76-10275; 388-76-10280; 388-76-10285; 388-76-10290; 388-76-10295; 388-76-10300; 388-76-10305; 388-76-10310; 388-76-10420; 388-76-10455; 388-76-10490; 388-76-10520; 388-76-10540; 388-76-10673; 388-76-10685; 388-76-10750; 388-76-10820; 388-76-10840; 388-76-10845; 388-76-10870; 388-76-10880; 388-76-10920; 388-76-10955; 388-76-10960; 388-76-10990; 388-76-10995; 388-76-11005; 388-76-11010; 388-76-11015; 388-76-11025; 388-76-11030; 388-76-11035; 388-76-11040.

Suspended: None

Statutory authority for adoption: RCW 70.128.040

Other authority: None

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 09-20-060 on October 2, 2009 (date).

Describe any changes other than editing from proposed to adopted version: See attachment

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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Date adopted:

January 14, 2010

NAME (TYPE OR PRINT)

Susan N. Dreyfus

SIGNATURE

TITLE

Secretary, Department of Social and Health Services

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 15, 2010

TIME: 2:54 PM

WSR 10-03-064

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>19</u>	Amended	<u>47</u>	Repealed	<u>1</u>
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	<u>19</u>	Amended	<u>47</u>	Repealed	<u>1</u>

Rule Making Order CR-103
Chapter 388-76 WAC Adult Family Homes
ATTACHMENT

Describe any changes other than editing from proposed to adopted version:

The changes, other than editing changes, follow:

Changes are shown with new language underlined and deleted text lined through.

NEW SECTION

WAC 388-76-10003 Department access. (1) The applicant must allow the department staff to inspect the entire premises including all of the home's all rooms, buildings, grounds, and equipment and all pertinent records in the home during the initial licensing of the home.

(2) During inspections, the adult family home must allow the department staff to examine all areas and articles in the home that are used to provide care or support to residents, including the physical premises and residents' records and accounts. The physical premises includes the buildings, grounds, and equipment. The provider's personal records unrelated to the operation of the adult family home are not subject to department review. The provider's separate bedroom will not be subject to review and inspection unless it is used to provide direct care to a resident.

(3) During complaint investigations, the adult family home must give department staff access to the entire premises and all records related to the residents or operation of the home. Department staff are authorized to interview the provider, family members, and individuals residing in the home including residents.

WAC 388-76-10030 License capacity. (1) The adult family home capacity ~~is more than one but not more than six;~~ this includes: (a) The number of residents; which is the resident capacity; plus (b) The number of related children or adults in the home who receive personal or special care services.

~~(2) The resident capacity number will be listed on the adult family home license and the home must ensure that the number of residents in the home does not exceed the resident capacity.~~

~~(3)~~ (2) In determining the home's resident capacity, the department must consider the:

(a) Structural design of the house;

(b) Number and accessibility of bathrooms;

(c) Number and qualifications of staff;

(d) Total number of people living in the home who require personal or special care, including:

(i) Related Children and adults; and

(ii) Other household members;

(e) The number of people for whom the home provides adult day care; and

(f) The ability for the home to safely evacuate all people living in the home.

23) The resident capacity number will be listed on the adult family home license and the home must ensure that the number of residents in the home does not exceed the resident capacity.

(4) The adult family home resident capacity may be adjusted due to changes to the household mix or structure.

WAC 388-76-10050 License--Relinquishment. (1) ~~If an~~ The adult family home does not have any residents, it may ~~must~~ relinquish; or surrender, its license to the department: (a) Within thirty days of the last resident leaving the home; at any time.

~~or (b) When the home moves all residents out of the home for purposes other than remodeling or construction; or (c) When there has been no evidence of residents in the home during the last two inspections.~~

(2) ~~The home may not be required to relinquish or surrender the license if circumstances such as a fire or flooding, result in the adult family home discharging residents because the home is not habitable for an extended period. In this circumstance the adult family home must:~~ (a) Inform the

~~department that there are no residents in the home and where current residents have been relocated;~~
~~(b) Tell the department approximately how long it will be before the home will be able to admit residents again;~~ (c) Inform the department when the home has been approved by the building inspectors and the adult family home is ready to admit residents again; and (d) Not admit residents until the department has completed an inspection. must relinquish its license if it has not provided care and services to residents for twenty-four months.

(3) The department may revoke the adult family home license if: (a) ~~‡The~~ home does not relinquish, or surrender, the adult family home license as required under subsection (2); and (b) There is no credible evidence that residents were cared for in the home during the period of time specified in subsection (2).

NEW SECTION

~~WAC 388-76-10103 Application Liability insurance required. (1) The applicant must submit insurer executed evidence of liability insurance coverage with the application.~~

~~(2) The coverage and evidence of coverage must comply with the requirements of WAC 388-76-10192 and 388-76-10193.~~

WAC 388-76-10120 License--Must be denied. The adult family home license will not be granted if:

(1) The applicant has not successfully completed a department-approved forty-eight hour adult family home administration and business planning class except as provided in WAC 388-76-10064.

(2) It has been less than twenty years since the applicant surrendered or relinquished an adult family home license after receiving notice that the department intended to deny, suspend, not renew or revoke the license.

(3) The applicant or the applicant's spouse, domestic partner, or any partner, officer, director, managerial employee or majority owner of the applying entity:

(a) Has a history of significant noncompliance with federal or state laws or regulations in the provision of care or services to children or vulnerable adults;

(b) Has been convicted of a crime in federal court or in any other state, and the department determines that the crime is equivalent to a crime under subsections (3)(c), (3)(d), ~~or (3)(e),~~ (3)(f), or (3)(g) below;

(c) Has been convicted of a "crime against children or other persons" as defined in RCW 43.43.830, unless the crime is simple assault, assault in the fourth degree, or prostitution and more than three years has passed since conviction;

(d) Has been convicted of "crimes relating to financial exploitation" as defined in RCW 43.43.830, unless the crime is theft in third degree and more than three years have passed since conviction, or unless the crime is forgery or theft in the second degree and more than five years has passed since conviction;

(e) Has been ~~found~~ convicted of:

(i) Violation of the imitation controlled substance act (VICSA);

(ii) Violation of the uniform controlled substances act (VUCSA);

(iii) Violation of the uniform legend drug act (VULDA); or

(iv) Violation of the uniform precursor drug act (VUPDA).

(f) Has been convicted of ~~S~~ending or bringing into the state depictions of a minor engaged in sexually explicit conduct;

(g) Has been convicted of criminal mistreatment;

~~(f) Has been found in any final decision issued by a disciplining authority to have abused, neglected, exploited, or abandoned a minor or vulnerable adult;~~

~~(g) Is listed on a state registry with a finding of abuse, neglect, financial exploitation, or abandonment of a minor or vulnerable adult; or~~

~~(h) Has been the subject of a finding or conclusion by a court of law, or any comparable state or federal law, that the individual abused, neglected, financially exploited or abandoned a minor or vulnerable adult.~~

- (h) Has been found to have abused, neglected, exploited, or abandoned a minor or vulnerable adult by court of law or a disciplining authority, including the department of health. Examples of legal proceedings in which such findings could be made include juvenile court proceedings under chapter 13.34 RCW, domestic relations proceeding under Title 26 RCW, and vulnerable adult protection proceedings under chapter 74.34 RCW;
- (i) Has a finding of abuse or neglect of a child that is:
- (i) Listed on the department's background check central unit (BCCU) report; or
- (ii) Disclosed by the individual, except for findings made before December, 1998.
- (j) Has a finding of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult that is:
- (i) Listed on any registry, including the department's registry;
- (ii) Listed on the department's background check central unit (BCCU) report; or
- (iii) Disclosed by the individual, except for Adult Protective Services findings made before October, 2003.

WAC 388-76-10180 Employment and other unsupervised access decisions ~~Certain criminal history--Prohibited.~~ The adult family home must not employ any person, directly or by contract, or accept as a volunteer or student any person who may have unsupervised access to residents, or allow a household member over the age of eleven unsupervised access to any resident if the person or background inquiry discloses that the person has a history of:

- (1) Any of the convictions, history, or findings, described below:
- (a) Has a history of significant noncompliance with federal or state laws or regulations in the provision of care or services to children or vulnerable adults;
- (b) Has been convicted of a crime in federal court or in any other state, and the department determines that the crime is equivalent to a crime under subsections (c), (d), (e), (f) or (g) below;
- (c) Has been convicted of a "crime against children or other persons" as defined in RCW 43.43.830, unless the crime is simple assault, assault in the fourth degree, or prostitution and more than three years has passed since conviction;
- (d) Has been convicted of "crimes relating to financial exploitation" as defined in RCW 43.43.830, unless the crime is theft in third degree and more than three years have passed since conviction, or unless the crime is forgery or theft in the second degree and more than five years has passed since conviction;
- (e) Has been convicted of:
- (i) Violation of the imitation controlled substances act (VICSA);
- (ii) Violation of the uniform controlled substances act (VUCSA);
- (iii) Violation of the uniform legend drug act (VULDA); or
- (iv) Violation of the uniform precursor drug act (VUPDA).
- (f) Has been convicted of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;
- (g) Has been convicted of criminal mistreatment;
- (h) Has been found to have abused, neglected, financially exploited, or abandoned a minor or vulnerable adult by court of law or a disciplining authority, including the department of health. Examples of legal proceedings in which such findings could be made include juvenile court proceedings under chapter 13.34 RCW, domestic relations proceeding under Title 26 RCW, and vulnerable adult protection proceedings under chapter 74.34 RCW;
- (i) Has a finding of abuse or neglect of a child that is:
- (i) Listed on the department's background check central unit (BCCU) report; or

- (ii) Disclosed by the individual, except for findings made before December, 1998.
- (j) Has a finding of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult that is:
 - (i) Listed on any registry, including the department's registry;
 - (ii) Listed on the department's background check central unit (BCCU) report; or
 - (iii) Disclosed by the individual, except for Adult Protective Services findings made before October, 2003.

~~A stipulated finding of fact, conclusion of law, an agreed order, or finding of fact, conclusion of law, final order issued by a disciplining authority or final decision by any federal or state agency or department, a court of law, or entered into a state registry or department or agency list with a finding of abuse, neglect, exploitation, or abandonment of a minor or a vulnerable adult as defined in chapter 74.34 RCW; or~~

~~(2) Nothing in this section should be interpreted as requiring the employment of any person against the better judgment of the adult family home. Any of the convictions, or findings described in WAC 388-76-10120(3).~~

NEW SECTION

WAC 388-76-10191 Liability insurance required--Ongoing. The adult family home must:

- (1) Obtain liability insurance upon licensure and maintain the ~~Maintain liability~~ insurance as required in WAC 388-76-10192 and 388-76-10193; and
- (2) Have evidence of liability insurance coverage available if requested by the department.

WAC 388-76-10195 Adult family home--Staff--Generally. The adult family home must ensure:

- (1) When one or more residents are in the home, enough staff are available in the home to meet the needs of each resident, except as provided in WAC 388-76-10200;
- (2) Staff are readily available to meet resident needs if the home takes the resident out to another location and the resident negotiated care plan does not indicate it is safe for the resident to be left unattended for a specific time period; and
- (3) All staff are skilled and able to do the tasks assigned to meet the needs of each resident.

WAC 388-76-10275 Tuberculosis--No testing. The adult family home is not required to have a person tested for tuberculosis if the person has:

- (1) A documented history of a previous positive skin test, with ten or more millimeters induration; ~~or~~
- (2) A documented history of a previous positive blood test; or
- (3) Documented evidence of:
 - (a) Adequate therapy for active disease; or
 - (b) Completion of treatment for latent tuberculosis infection preventive therapy.

WAC 388-76-10280 Tuberculosis--One step testing. The adult family home is only required to have a person take ~~a one-step skin or blood test~~ if the person has any of the following:

- (1) A documented history of a negative result from a previous two step testing done no more than one to three weeks apart; or
- (2) A documented negative result from one ~~step~~-skin or blood testing in the previous twelve months.

WAC 388-76-10285 Tuberculosis--Two step skin testing. Unless the person meets the requirement for having no skin testing or only ~~a one step skin~~ test, the adult family home, choosing to have ~~do skin testing done~~ must ensure that each person has the following two-step skin testing:

- (1) An initial skin test within three days of employment; and
- (2) A second test done one to three weeks after the first test; ~~except~~

~~(3) A two-step test is not required for the IGRA blood test which is only a one-step test.~~

WAC 388-76-10290 Tuberculosis--Positive test result. When there is a positive result to tuberculosis skin or blood testing, the adult family home must:

- (1) Ensure that the individual person has a chest X ray within seven days;
- (2) ~~Evaluate~~ ensure each resident or employee with a positive test result is evaluated for signs and symptoms of tuberculosis; and
- (3) Follow the recommendation of the person's health care provider.

WAC 388-76-10880 Emergency evacuation adult family home bedrooms. The adult family home must ensure each resident with an evacuation capability of "assistance required" has a bedroom on a ground-level floor which:

- (1) Has at least one means of exiting the floor where the bedroom is located; to the outdoors, without going through any room including the garage; and
- (2) Exiting from the bedroom does not require the use of:
 - (a) Stairs;
 - (b) Elevators;
 - (c) Chairlift; or
 - (d) A platform lift.

WAC 388-76-10955 Remedies--Department must impose remedies. (1) The department must impose a remedy or remedies if the department substantiates a complaint involving harm to a resident and violation of an applicable law or rule.

(2) The department must impose a remedy or remedies if the department substantiates, after licensure, that it has been less than twenty years since the adult family home voluntarily surrendered or relinquished an adult family home license in lieu of department initiated denial, suspension, nonrenewal, or revocation of a license.

(3) The department must impose a remedy or remedies if the department finds any person listed in WAC 388-76-10950:

(a) Has a history of significant noncompliance with federal or state laws or regulations in the provision of care or services to children or vulnerable adults;

(b) Has been convicted of a "crime against children or other persons" as defined in RCW 43.43.830, unless the crime is simple assault, assault in the fourth degree, or prostitution and more than three years has passed since conviction;

(c) Has been convicted of "crimes relating to financial exploitation" as defined in RCW 43.43.830, unless the crime is theft in third degree and more than three years have passed since conviction, or unless the crime is forgery or theft in the second degree and more than five years has passed since conviction;

(d) Has been convicted of:

(i) Violation of the imitation controlled substances act (VICSA);

(ii) Violation of the uniform controlled substances act (VUCSA);

(iii) Violation of the uniform legend drug act (VULDA); or

(iv) Violation of the uniform precursor drug act (VUPDA);

~~(e) or (v) S~~ Has been convicted of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;

(ef) Has been convicted of criminal mistreatment;

(g) Has been found in any final decision issued by a disciplining authority to have abused, neglected, financially exploited, or abandoned a minor or vulnerable adult by court of law or a disciplining authority, including the department of health. Examples of legal proceedings in which such findings could be made include juvenile court proceedings under chapter 13.34 RCW, domestic relations proceeding under Title 26 RCW, and vulnerable adult protection proceedings under chapter 74.34 RCW;

(f h) Has a finding of abuse or neglect of a child that is:

(i) Listed on the department's background check central unit (BCCU) report; or

(ii) Disclosed by the individual, except for findings made before December, 1998.

(i) Has a finding of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult that is:

(i) Listed on any registry, including the department's registry;

(ii) Listed on the department's background check central unit (BCCU) report; or

(iii) Disclosed by the individual, except for Adult Protective Services findings made before October, 2003.

(j) Has been convicted of a crime in federal court or in the court of any other state, and the department determines that the conviction is equivalent to a conviction under subsection (3)(b), (3)(c) or (3)(d), (3) (e), or (3) (f) above;

~~(g) Is listed on a state registry with a finding of abuse, neglect, financial exploitation, or abandonment of a minor or vulnerable adult; or~~

~~(h) Has been the subject of a finding or conclusion by a court of law that the individual abused, neglected, financially exploited, or abandoned a minor or vulnerable adult. Examples of legal proceedings in which such findings could be made include juvenile court proceedings under chapter 13.34 RCW, domestic relations proceedings under Title 26 RCW, and vulnerable adult protection proceedings under chapter 74.34 RCW.~~

WAC 388-76-10960 Remedies--Department may impose remedies. The department may impose a remedy or remedies if the department finds any person listed in WAC 388-76-10950:

(1) Has been convicted of:

(a) Any felony that the department determines is reasonably related to the competency of the person to be involved in the ownership or operation of an adult family home; or

(b) A crime involving a firearm used in the commission of a felony or in any act of violence against a person.

(2) Has engaged in the illegal use, sale or distribution of drugs or excessive use of alcohol or drugs without the evidence of rehabilitation;

(3) Has committed an act of domestic violence toward a family or household member;

(4) Has been found in any final decision of a federal or state agency to have abandoned, neglected, abused, or financially exploited a vulnerable adult, unless such decision requires imposition of a remedy under WAC 388-76-10955;

(5) Has had a license for the care of children or vulnerable adults denied, suspended, revoked, or not renewed;

(6) Has a history of violations of chapter 70.128 RCW, or any law regulating residential care facilities, that resulted in revocation, suspension, or nonrenewal of a license with the department;

(7) Has been enjoined from operating a facility for the care and services of children or adults;

(8) Has had a medicaid or medicare provider agreement or any other contract for the care and treatment of children or vulnerable adults, terminated, cancelled, suspended, or not renewed by any public agency, including a state medicaid agency;

(9) Has been the subject of a sanction, corrective, or remedial action taken by federal, state, county, or municipal officials or safety officials related to the care or treatment of children or vulnerable adults;

(10) Has obtained or attempted to obtain a license by fraudulent means or misrepresentation;

(11) Knowingly, or with reason to know, made a false statement of material fact on his or her application for a license or any data attached to the application, or in any matter involving the department;

(12) Permitted, aided, or abetted the commission of any illegal act on the adult family home premises;

(13) Willfully prevented, interfered with, or failed to cooperate with any inspection, investigation, or monitoring visit made by the department, including refusal to permit authorized department representatives to interview residents or have access to their records;

(14) Failed or refused to comply with:

(a) A condition imposed on a license or a stop placement order; or

(b) The requirements of chapters 70.128, 70.129, 74.34 RCW, this chapter or any other applicable laws.

(15) Misappropriated property of a resident, unless such action requires a remedy under WAC 388-76-10955;

(16) Exceeded licensed capacity in the operation of an adult family home;

(17) Operated a facility for the care of children or adults without a license or with a revoked license;

(18) In connection with the operation of any facility for the care of children or adults, relinquished or returned a license, or did not seek license renewal following written notification that the licensing agency intends to deny, suspend, cancel or revoke the license, unless such action requires imposition of a remedy under WAC 388-76-10955;

(19) When providing care to children or vulnerable adults, has had resident trust funds or assets seized by the Internal Revenue Service or a state entity for failure to pay income or payroll taxes;

(20) Failed to meet financial obligations as the obligations fell due in the normal course of owning or operating a business involved in the provision of care and services to children or vulnerable adults;

(21) Has failed to meet personal financial obligations and that failure has resulted in a failure to provide necessary care and services to the residents;

(22) Interfered with a long-term care ombudsman or department staff in the performance of his or her duties; or

(23) Failed to relinquish, or surrender, the license as required.

~~;~~ ~~or~~

~~_____ (24) Failed to have evidence of residents in the home for the last two inspections.~~

WAC 388-76-10990 Informal dispute resolution (IDR). (1) When an adult family home disagrees with the department's finding of a violation under this chapter, the adult family home has the right to have the violation reviewed by the department under the department's dispute resolution process.

(2) The purpose of the review is to give the adult family home an opportunity to present information that might warrant modification or deletion of a finding of a violation.

(3) The adult family home may submit a written statement for review.

(4) In addition to a written statement, the adult family home may ask to present the information in person to a department designee.

(5) Requests for review must be made in writing to the department at the address provided in the department's certified ~~letter~~ notice within ten working days of receipt of the written finding of a violation.

(6) Orders of the department imposing license suspension, stop placement, or conditions on a license are effective immediately upon notice and shall continue pending dispute resolution.

SUMMARY OF COMMENTS RECEIVED	THE DEPARTMENT CONSIDERED ALL THE COMMENTS. THE ACTIONS TAKEN IN RESPONSE TO THE COMMENTS, OR THE REASONS NO ACTIONS WERE TAKEN, FOLLOW.
<p>General:</p> <p>We received a number of comments that the rulemaking process was not followed and stakeholders were not involved.</p>	<p>The department used an open process and invited a number of interested parties to the stakeholder meeting. Three WSRCC members who attended the hearing also attended the stakeholder meeting. Draft WACs were sent to every one of the stakeholders originally invited as well as the three WSRCC members who attended. Those receiving the draft rules had several weeks to respond; no-one did. All adult family homes and interested parties received</p>

	<p>letters with the CR-101 and CR-102 notice, along with proposed rules. In addition, the department sent all hearing attendees a letter describing the rule making process, including the details of this particular rule making process.</p>
<p>A number of comments were on the cost increases due to the liability insurance requirement and the rate decrease. One comment was on questioning how to provide basic care with the rate provided.</p>	<p>All comments related to cost and rates were forwarded to the division responsible for rate setting.</p>
<p>A comment was received that the state is allowing too many to become licensed without experience in geriatrics or business practices and that the state needs to reevaluate what is needed to become a provider.</p>	<p>No change was made. The department uses minimum licensing requirements to evaluate applicants who apply to become adult family home licensees. The legislature established those requirements in the licensing statute, chapter 70.128 RCW.</p>
<p>A number of examples were given about licensors incorrectly or too broadly interpreting rules. (definition of capacity, staff, 10420 and 10840)</p>	<p>The adult family home provider must address questions and concerns about licensor decisions with the designated Field Manager or Regional Administrator.</p>
<p>WAC 388-76-10000 and WAC 388-76-10030 Definition –capacity . Several comments were that the department should not count children as part of the capacity.</p>	<p>No change was made. This is a current requirement. The licensing statute, chapter 70.128 RCW defines capacity as “...the maximum number of persons in need of personal or special care permitted in an adult family home at a given time. This number shall include related children or adults...”.</p>
<p>WAC 388-76-10003 Clarification is needed to show that the initial inspection is to cover all of the home, property, and records.</p>	<p>A change was made to clarify that on an initial inspection the entire premises could be inspected including buildings, grounds, equipment and records.</p>
<p>WAC 388-76-10103 A number of comments received on the cost of liability insurance having a negative impact on resident care.</p> <p>A comment was also received that the department suggests that the cost of liability insurance is not going to impact the adult family homes.</p>	<p>No change was made. All adult family homes that have a Medicaid contract with the department are already required to have liability insurance, approximately 84%. Of the remaining approximately 16%, some may have made the decision to have the insurance. Liability insurance for all provides equal protections for all residents who reside in adult family homes.</p> <p>The department stated that there was not a disproportionate cost for small businesses, but that there might be a cost to the homes that do not contract with the department and who may have elected not to have liability insurance.</p>
<p>WAC 388-76-10103 and WAC 388-76-10191 It</p>	<p>A change was made. This section was deleted</p>

may be a long time before an applicant receives license and the applicant may not have enough information to get the liability insurance ahead of time.	and the department clarified that the adult family home must obtain liability insurance upon licensure.
WAC 388-76-10115 (b) Concern was expressed about the department considering financial issues when considering whether or not to deny a license.	No change was made. This is a current requirement.
WAC 388-76-10120, WAC 388-76-10180, WAC 388-76-10955 Needs clarification on when the finding is disqualifying and what is meant by department or state registry.	A change was made in response to this comment by clarifying that the finding is disqualifying when listed on the registry, background check report or when disclosed by the individual. Added dates of when the findings were issued to allow for when due process was implemented. Included "convicted of criminal mistreatment" as a disqualifying crime since it is already on the department's lists of crimes and negative actions.
WAC 388-76-10275, WAC 388-76-10280 and WAC 388-76-10285 Use of word step to describe one step test is confusing.	A change was made in response to this comment to take out the word step when referring to one skin test and clarifying that one test could be skin or blood test.
WAC 388-76-10290 Should be using term person instead of individual and may not be reasonable for providers to evaluate for signs and symptoms.	A change was made in response to this comment replacing individual with person and clarifying that the provider needs to ensure that the person is evaluated.
WAC 388-76-10880 Need clarification on exiting the bedroom.	A change was made in response to this comment by clarifying that it applies to exiting the floor on which the bedroom is located.

WAC 388-76-10960 Section 24 is redundant.	A change was made to delete this section.
WAC 388-76-10990 Letter should be clarified as notice since the department has other options than letters.	A clarifying change was made to replace the word "letter" with "notice."
WAC 388-76-10195 Concern was expressed that the department has not adequately address the needs of residents with disabilities. Comment that residents/clients do not always need 24/7 staffing.	No change was made. The legislature established RCW 70.128.210&230 that required the development of specialty care trainings, including for the homes who care for persons with developmental disabilities. Adult family home providers and staff are required to take the training if there is a resident in the home with those needs. A change was made. A WAC section was revised to reflect that if the resident's assessment and care plan specified that the resident was safe to be left unattended and for a specified period of time the home could do so.
WAC 388-76-10020 Comment that looking into personal finances is not appropriate.	No change was made. The department currently looks into financial affairs, business or personal, of any applicant.
WAC 388-76-10050 A number of comments were received expressing concern that providers would be required to give up their license even when they wanted to take a break, or could not get clients in time due to the economy or because a spouse got sick.	A change was made. While some of the concern was related to a current requirement, this section has been simplified and the time frame extended.

WAC 388-76-10064 Requirement should continue to be for all providers and not allow for anyone to not take administrative class.	No change was made. The department has the discretion to consider not requiring the class when there is a Change of Ownership where the underlying structure of the ownership of the home has not changed.
WAC 388-76-10845 Should be within a valid expiration date or warranty date and not changed every six months.	No change was made. The proposed language requires the supply to be changed every six months, unless there is a longer expiration date on the supply.
WAC 388-76-10080 Unclear on rationale for not allowing married or domestic partners to have separate licenses.	No change was made. This is a current requirement.
WAC 388-76-10115 (4f) Should stay as a current requirement . Concern was expressed that repairs would be delayed since providers would need to await a background check on a contractor.	No change was made. This section only applies to “granting or denying a license.”

The changes were made because:
Of comments received and to clarify the requirements.